

## COUNCIL PROCEDURE



|                             |                                    |
|-----------------------------|------------------------------------|
| <b>TITLE:</b>               | Internal Resolution Procedure      |
| <b>ID NUMBER:</b>           | CPR-CORPS-GE-001 DocSetID: 3257578 |
| <b>DEPARTMENT:</b>          | Corporate Services                 |
| <b>UNIT:</b>                | Governance                         |
| <b>RESPONSIBLE OFFICER:</b> | Director, Corporate Services       |

|                                  |  |
|----------------------------------|--|
| <b>ADOPTED DATE AND BY WHOM:</b> | 25 March 2025 by Council   |
| <b>EXPIRY DATE:</b>              | 25 March 2029  |
| <b>REVIEW DATE:</b>              | 24 January 2029<br><i>This procedure will be reviewed every four years or as required by any legislative or council changes.</i> |

|                             |   |   |  |
|-----------------------------|---|---|--|
| <b>AVAILABILITY:</b>        | Organisation wide                                   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
|                             | Public  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
|                             | Internet  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| <b>ADVISE AVAILABILITY:</b> | Media Release                                       | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
|                             | Sou Wester (Responsible Officer to prepare article) | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            |

(This document is uncontrolled when printed)

## 1. References (if applicable)

- [Local Government Act 2020](#)
- [Local Government \(Governance and Integrity\) Regulations 2020](#)
- [Model Councillor Code of Conduct](#)
- [Public Interest Disclosure Act 2012](#)
- [Public Interest Disclosure Policy](#)

## 2. Purpose

This Internal Resolution Procedure (Procedure) is adopted under and in accordance with section 140 of the *Local Government Act 2020 (Act)* and regulation 12A of the *Local Government (Governance and Integrity) Regulations 2020*.

This Procedure will be observed when dealing with alleged breaches of the Model Councillor Code of Conduct.

## 3. Scope

Disputes between Councillors may arise in a variety of circumstances. This Procedure is to apply to those disputes in which one Councillor (the Complainant) alleges that another Councillor (the Respondent) has breached the Model Councillor Code of Conduct.

This Procedure provides both parties to a dispute with support and encouragement to resolve the dispute in a manner that enables the Councillors to move forward and maintain effective working relationships.

This Procedure is designed to minimise cost and disruption of disputes to Council and individual Councillors and, where possible, avoid disputes escalating and becoming the subject of an internal arbitration.

It is acknowledged that this Procedure will not be suitable for resolution of all disputes between Councillors.

An overview of the Procedure is attached, in the form of a flowchart at Appendix 2.

## 4. Internal Resolution Procedure

### 4.1 First Stage of Internal Resolution Procedure – Discussion

A Complainant is encouraged to raise their issue directly with the Respondent in a respectful and courteous manner, either in person or in writing, where they feel comfortable to do so.

Councillors are encouraged to recognise that:

- a. certain behaviours and communications may be perceived by others to be causing issues or offence that may not have been intended

- b. it can provide useful insight to reflect on their own behaviour or motivation and possible contribution to the dispute, whether intended or not
- c. dealing with the dispute early is more likely to avoid the issue escalating and resolve it before it threatens the effective operation of Council.

It is useful to frame any issue from the Councillor's perspective (eg "I felt disrespected when you said / did ..."), rather than accusing another person of holding a particular position or taking a negative action deliberately. A Councillor should let the other Councillor know how they feel and ask for an explanation, rather than making accusations or assumptions.

## **4.2 Second Stage of Internal Resolution Procedure – Conciliation**

Where a direct conversation between Councillors has not been successful in resolving the dispute, or a Councillor does not feel comfortable communicating directly with another Councillor, the second stage of this Procedure is conciliation.

### **4.2.1 Initiating conciliation**

A Complainant initiating conciliation must notify the Mayor and the Respondent of the dispute by completing a Conciliation Application Form. That form (see Appendix 1 to this Procedure) must:

- a. specify the names of the Complainant and Respondent
- b. specify the provision (or provisions) of the Model Councillor Code of Conduct alleged to have been breached
- c. detail what was said or done by the Respondent to constitute a breach of the Model Councillor Code of Conduct
- d. attach any supporting information to provide examples of the behaviour complained of (e.g. screenshots or emails)
- e. be dated and signed by the Complainant.

### **4.2.2 Participating in conciliation**

Councillors are not obliged to engage in conciliation but should only decline to participate if they honestly and reasonably believe that their participation would adversely affect their health or wellbeing or would otherwise be unsafe.

A Respondent declining to participate in the conciliation must advise the Complainant and the Mayor of their unwillingness to participate, and the reasons for it. That advice must be provided no more than one week after receiving the Conciliation Application Form.

### **4.2.3 Conduct of conciliation**

Conciliation is to be conducted by the Mayor except when the Mayor is a party to the dispute or otherwise unavailable to conduct conciliation. In that case the Deputy Mayor will assume the role of the Mayor in the conciliation process. If both the Mayor and the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct the conciliation, the role of the Mayor must be performed by a Councillor jointly chosen for the purpose by the parties.

When, in this Procedure, reference is made to the Mayor it includes:

- a. the Deputy Mayor
- b. a Councillor jointly chosen for the purpose by the parties, when the Mayor and/or the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct a conciliation.

### **4.2.4 Roles and responsibilities**

The role of the Mayor is to provide guidance to the parties to the dispute about the Standards of Conduct in the Model Councillor Code of Conduct, and actively explore whether the dispute can be resolved by agreement between them.

The role of the Complainant and Respondent is to explain their respective positions and, in a show of goodwill, actively explore the possibility of resolving the dispute by agreement.

All Councillors are responsible for conducting themselves in a courteous and respectful manner at all times during the conciliation.

The role of the Councillor Conduct Officer is to provide the Mayor with the administrative support necessary to arrange and conduct the conciliation.

### **4.2.5 Support from Council**

Council, through the Councillor Conduct Officer, will provide administrative assistance to the Mayor when arranging a time and place for conciliation, including any technical assistance that may be required. Council will make a venue available to the Councillors within Council's offices that is private and suited to the conciliation process.

Council will not provide any substantive guidance or advice about the subject matter of the dispute, or pay the costs of legal advice or representation for any Councillor in connection with this Procedure. Parties to a dispute may seek their own legal or other advice at their own cost, if they choose to do so.

### **4.2.6 End or termination of conciliation**

Conciliation will end or be terminated if any of the following occurs:

- a. the parties cannot jointly choose a Councillor to conduct the conciliation within one week of being asked to do so
- b. the Respondent notifies the Mayor that they do not wish to participate in conciliation, and the reasons for it, within one week of receiving the Conciliation Application Form
- c. the Respondent does not respond to the Conciliation Application Form at all within two weeks of receiving it
- d. conciliation has not occurred within four weeks of the Complainant submitting the Conciliation Application Form
- e. conciliation has occurred and the parties have been unable to resolve the dispute
- f. the dispute has been resolved.

The time for conciliation may be extended by agreement between the parties to the dispute, whether or not the matter has been escalated to one of the formal dispute resolution procedures outlined in the *Act*.

#### **4.2.7 Confidentiality**

Parties and other participants are expected to maintain confidentiality concerning the dispute and the operation of this Procedure.

#### **4.2.8 Record of outcome**

The Mayor must document any agreement that is reached between the Complainant and Respondent. The agreement must be signed by the Complainant, Respondent and Mayor. Copies must be provided to the Complainant and Respondent, and the original must be retained by the Mayor. Again, parties and the Mayor are expected to maintain the confidentiality of the agreement reached.

### **5. Internal Resolution Procedure does not Apply in these Circumstances**

The following disputes are not covered by this Procedure:

- a. differences between Councillors in relation to policy or decision making, which are appropriately resolved through discussion and voting in Council meetings
- b. complaints made against a Councillor or Councillors by a member or members of Council staff, or by any other external person
- c. allegations of sexual harassment
- d. disclosures made about a Councillor under the *Public Interest Disclosures Act 2012*, which can only be made to the Independent Broad-based Anti-corruption Commission

- e. allegations of criminal misconduct, which should be immediately referred to Victoria Police or the relevant integrity authority.

## 6. Formal Dispute Resolution Procedure

This Procedure operates alongside, and does not replace, the formal dispute resolution procedures outlined in the *Act*.

The formal dispute resolution procedure applies to misconduct, serious misconduct and gross misconduct.

Section 141 of the *Act* provides for an internal arbitration process concerning a breach of the Standards of Conduct set out in the Model Councillor Code of Conduct.

### 6.1 Independent arbiter

#### Application Process

An application for an internal arbitration process to make a finding of **misconduct** against a Councillor may only be made by:

- a. the Council following a resolution of the Council
- b. a Councillor or a group of Councillors.

An application for internal arbitration must be made within 3 months of the alleged misconduct occurring and must be provided to the Principal Councillor Conduct Registrar in the manner specified in the *Act* and the *Regulations*. The Councillor Conduct officer will assist in the facilitation of this process.

An application for an internal arbitration process requires the following information:

- the name of the Councillor alleged to have breached the standards of conduct; and
- the clause of the standards of conduct that the Councillor is alleged to have breached; and
- the misconduct that the Councillor is alleged to have engaged in that resulted in the breach;

The template for the arbitration process is provided in Appendix 3 - Application For An Internal Arbitration Process.

After receiving an application, the Councillor Conduct Officer will ensure that a copy of the application is provided to the Councillor who is the subject of the application.

## **Assessment**

The Principal Councillor Conduct Registrar must appoint an arbiter to the Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied that the application is not frivolous, vexatious, misconceived or lacking in substance; and that there is sufficient evidence to support an allegation of a breach of the Model Councillor Code of Conduct as specified in the application.

The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied that the above application has met the required evidence threshold. The rejection of an application does not prevent a further application being made in respect of the same conduct by a Councillor that was the subject of the rejected application.

Information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons, is confidential information.

## **Hearing**

An arbiter appointed to hear a matter subject to an application must conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and ensure that the hearing is not open to the public.

An arbiter may hear each party to the matter in person or solely by written or electronic means of communication; and is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit.

An arbiter may at any time discontinue the hearing if the arbiter considers that the application is vexatious, misconceived, frivolous or lacking in substance; or if the applicant has not responded, or has responded inadequately, to a request for further information.

The arbiter must ensure that parties involved in internal arbitration process are given an opportunity to be heard by the arbiter, and that the arbitration is procedurally fair. A Councillor who is a party to an internal arbitration process does not have a right to representation unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly.

## **Serious misconduct referral**

If, at any time before, during or after the hearing of an application for an internal arbitration process, the arbiter believes that the conduct appears to involve serious misconduct the arbiter will refer the matter in writing to the Principal Councillor Conduct Registrar for consideration by a Councillor Conduct Panel. The Principal Councillor Conduct Registrar must notify the parties to the application where a matter has been referred in such circumstances.

## Determinations

Where an arbiter has determined that a Councillor has failed to comply with the prescribed standards of conduct, the arbiter may make a finding of misconduct against the Councillor and may do any one or more of the following:

- direct the Councillor to make an apology in a form or manner specified by the arbiter
- suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding 3 months.
- direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter
- direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter
- direct a Councillor to attend or undergo training or counselling specified by the arbiter.

The arbiter must provide a written copy of the arbiter's decision and statement of reasons to —

- a. the Council
- b. the applicant or applicants
- c. the respondent
- d. the Principal Councillor Conduct Registrar.

A copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the Council received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting. If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted.

## 7. Councillor Conduct Panel

A Councillor Conduct Panel may hear an application that alleges **serious misconduct** by a Councillor.

### Application Process

An application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor may be made by:

- a. the Council following a resolution of the Council
- b. a Councillor or a group of Councillors



- c. the Chief Municipal Inspector.

However, if the allegations relate to a failure to disclose a conflict of interest, the application can only be made by the Chief Municipal Inspector.

An application must be made within 12 months of the alleged serious misconduct occurring, and must be given to the Principal Councillor Conduct Registrar in the manner specified by the *Act*. The Councillor Conduct officer will assist in the facilitation of this process.

An application must specify

- the grounds for the application
- the circumstances, actions or inactions of the Councillor who is the subject of the application that are alleged as constituting serious misconduct
- the particulars of any evidence of those circumstances, actions or inactions
- any steps taken by Council to resolve the matter that is the subject of the application and the reason why the matter was not resolved by the taking of those steps
- if the Council did not take any steps to resolve the matter that is the subject of the application, the reason why the Council did not take any steps to resolve the matter.

If an application is made by the Council or a group of Councillors, the application must state the name and address of the Councillor whom the Council or the group of Councillors has appointed as representative of the Council or the group of Councillors.

## **Assessment**

The Principal Councillor Conduct Registrar, after examining an application, must form a Councillor Conduct Panel to hear the matter if the Principal Councillor Conduct Registrar is satisfied that the application is not frivolous, vexatious, misconceived or lacking in substance; and that there is sufficient evidence to support an allegation of serious misconduct as specified in the application; and that the Council has taken sufficient or appropriate steps to resolve the matter and the matter remains unresolved. All three of those requirements must be met.

The Principal Councillor Conduct Registrar may reject an application, or refer a matter the subject of an application back to the Council, if the Principal Councillor Conduct Registrar is not satisfied that the above application has met the above requirements, or forms the view that the matter has been, or is being, dealt with, by the Council or another body.

The rejection of an application, or the referral of a matter the subject of an application back to the Council, does not prevent a further application being made in respect of

the same conduct by a Councillor that was the subject of the rejected or referred application.

The Principal Councillor Conduct Registrar must form a Councillor Conduct Panel to hear the matter if the application is made by the Chief Municipal Inspector for a finding of serious misconduct.

A Councillor Conduct Panel must be established without delay and will include 2 people from the panel list established under the *Act*.

### **Hearing**

A Councillor Conduct Panel will fix a time and a place for the hearing to be conducted; and serve by post a notice of the time and place of the hearing on the applicant, the respondent and the Council.

A Councillor Conduct Panel may do any or all of the following—

- request a person to attend a hearing and answer questions;
- request information from the applicant, the respondent, or the Council, including confidential information held by the Council; and
- direct a Councillor to attend a hearing or provide information, including confidential information held by the Councillor.

Council must provide all reasonable assistance to the Councillor Conduct Panel which is necessary to enable the Councillor Conduct Panel to conduct the hearing and make a determination. Members of a Councillor Conduct Panel that are provided with confidential information must ensure that the information is not released to the public.

The proceedings of a Councillor Conduct Panel must be conducted with as little formality and technicality as the requirements of this *Act* and the proper consideration of the matter permit. There is no right to representation at the hearing except if the Councillor Conduct Panel considers that a party requires representation to ensure that the hearing is conducted fairly. The proceedings must not be open to the public.

If the hearing is based on an application made by a Council or a group of Councillors, the appointed representative must represent the Council or group of Councillors at the hearing.

The Panel is not bound by rules of evidence but may inform itself in any way it thinks fit but is bound by the rules of natural justice and must provide the respondent with an opportunity to be heard.

### **Chief Municipal Inspector referral**

A Councillor Conduct Panel must by notice in writing notify the Chief Municipal Inspector that a Councillor appears to have committed an offence under the *Act* as soon as the Councillor Conduct Panel becomes aware of the apparent offence.

## Determinations

A Councillor Conduct Panel may make a finding against a Councillor

- of serious misconduct
- of misconduct
- dismiss the application.

If a Councillor Conduct Panel makes a finding of serious misconduct against a Councillor, the Councillor becomes ineligible to hold the office of Mayor or Deputy Mayor for the remainder of the Council's term unless the Councillor Conduct Panel directs otherwise. The Panel may also do any one or more of the following:

- reprimand the Councillor
- direct the Councillor to make an apology in a form or manner determined by the Councillor Conduct Panel
- suspend the Councillor from office for a period specified by the Councillor Conduct Panel not exceeding 12 months
- direct that the Councillor is ineligible to chair a delegated committee of the Council for a period specified by the Councillor Conduct Panel not exceeding the remainder of the Council's term.

If a Councillor Conduct Panel makes a finding of misconduct against a Councillor, the Panel may do any one or more of the following:

- direct the Councillor to make an apology in a form or manner specified by the Councillor Conduct Panel
- suspend the Councillor from the office of Councillor for a period specified by the Councillor Conduct Panel not exceeding 1 month.
- direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the Councillor Conduct Panel
- direct that the Councillor be removed from being the chair of a delegated committee for the period determined by the Councillor Conduct Panel.

If a Councillor Conduct Panel determines that remedial action is required, it may also direct the Councillor who is the subject of the application to attend one or more of the following—

- mediation
- training

- counselling.

A Councillor Conduct Panel may also direct that the Council amend its Model Councillor Code of Conduct in a particular way or to address a particular issue.

Any necessary expenses incurred by Councillors in attending mediation, training or counselling must be paid by the Council.

Should a Councillor be the subject of 2 or more findings of serious misconduct by a Councillor conduct panel within 8 years, they will not be qualified to remain a Councillor.

The Councillor Conduct Panel must give a copy of the decision to the following—

- the Council
- the parties to the matter
- the Minister
- the Principal Councillor Conduct Registrar.

A copy of the decision given to the Council must be tabled at the next Council meeting and recorded in the minutes of that meeting. Unless otherwise determined by a Councillor Conduct Panel, information pertaining to the formation and hearing of the Councillor Conduct Panel remains confidential

A person who is affected by the decision made by a Councillor Conduct Panel under this Division may be able to apply to VCAT for review of the decision unless the reason to dismiss the application was because it is frivolous, vexatious, misconceived or lacking in substance.

## **8. Suspension of matters during election period**

Applications and proceedings made and conducted under this *Procedure* must be suspended during the election period for a general election.

Any internal resolution procedure that is in progress must be suspended during the election period for a general election.

If an application is made to a Councillor Conduct Panel for a finding of serious misconduct against a person who is a Councillor before a general election, and that person is not returned to the office of Councillor as a result of the general election, the application made against that person lapses.

## **9. Records Management**

All Council records created and managed as a result of implementing this procedure will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this procedure. Prior to destruction, advice must be sought from the Information and Data Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

## **9. Victorian State Legislation Copyright Acknowledgement**

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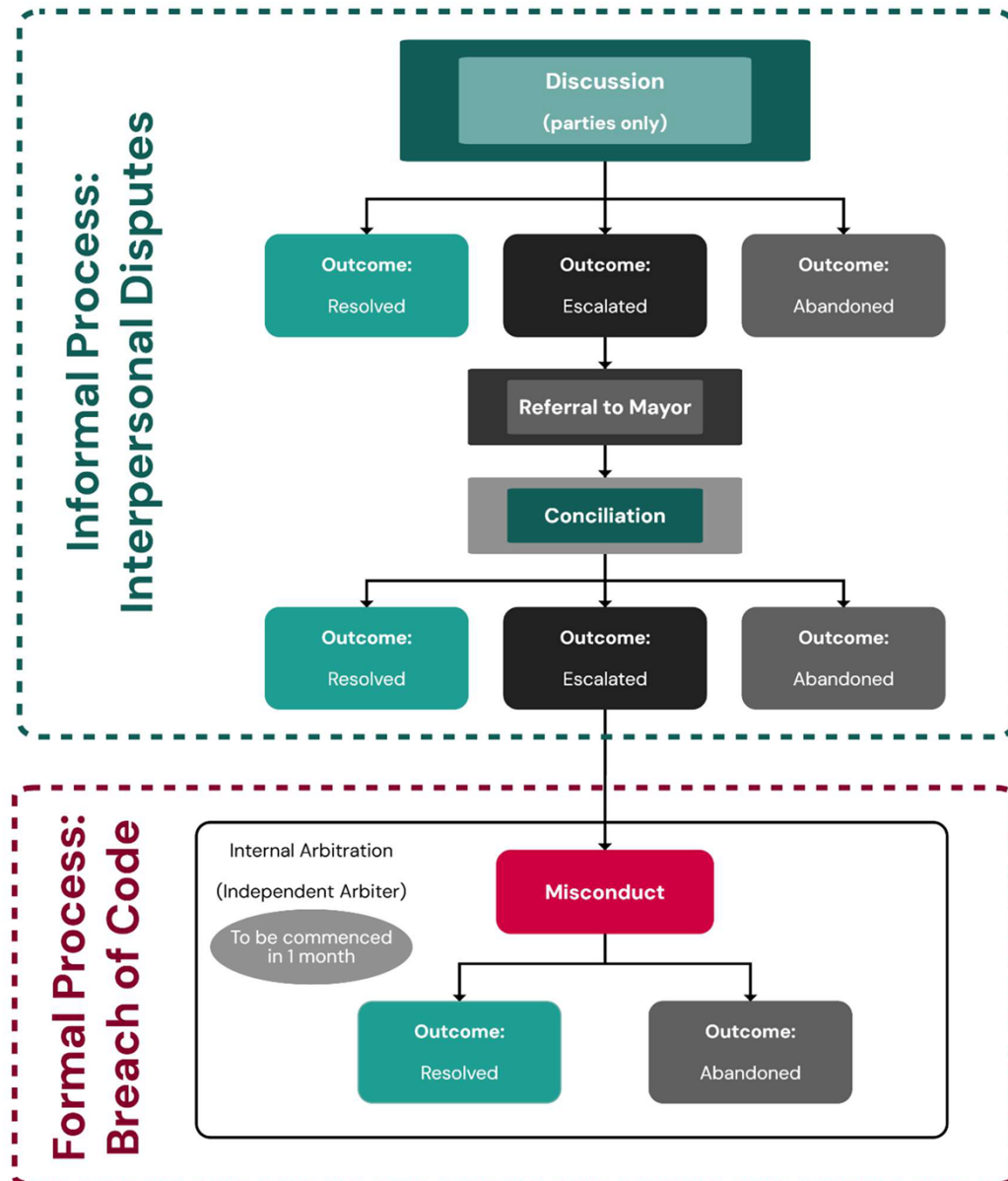
## **11. Appendices**

## Appendix 1      Conciliation Application Form

|  |  |
|--|--|
| <b>Complainant:</b>  |  |
| <b>Respondent:</b>   |  |
| <b>Provisions of Model Councillor Code of Conduct breached:</b>  |  |
| <b>Action constituting breach:</b><br><br>(Include dates, times and detailed descriptions of the action complained of. Attach further documents as necessary.) |  |

**Signed by** ..... )  
 ..... )  
**on** ..... )

## Appendix 2 Internal Resolution Procedure Flow Chart



**Appendix 3**      **Available from Councils Record Management** (DocSet: 2783350)

**APPLICATION FOR AN INTERNAL ARBITRATION PROCESS**

*under section 143 Local Government Act 2020*

**To: Principal Councillor Conduct Registrar**

The Applicant makes application under section 143 of the *Local Government Act 2020* (the Act) for an internal arbitration process to make a finding of misconduct against the Respondent Councillor in relation to the matters set out in this application.

**Section A - Council information**

|                        |  |
|------------------------|--|
| <b>Name of Council</b> |  |
|------------------------|--|

| Contact details of Councillor Conduct Officer for the Council |  |                  |  |
|---|--|------------------|--|
| Name  |  | Telephone number |  |
| Email   |  |                  |  |

**Section B – Parties**

| Applicant details  |  |
|--|--|
| Name(s)<br><i>(Council, councillor, or councillors)</i>  |  |
| Appointed representative<br><i>(if application is made by a Council or group of councillors)</i> |  |
| Email  |  |
| Telephone number   |  |

| Respondent details |  |
|--------------------|--|
| Name               |  |
| Email              |  |
| Telephone number   |  |



## Section C - Details of Misconduct alleged

|  |   |
|--|---|
| <p>Note: The prescribed requirements for an application for an internal arbitration process are set out in regulation 11 of the <a href="#">Local Government (Governance and Integrity) Regulations 2020</a> (the Regulations).</p> <p>The Model Councillor Code of Conduct is set out in Schedule 1 to the Regulations and is included in the instructions at the end of this form.</p> |   |
| <p>1. Clause(s) of the Model Councillor Code of Conduct alleged to have been breached</p> <p><i>(regulation 11(1)(b))</i></p>  | <p><input type="checkbox"/> Please confirm that you have read the relevant instructions for section C.1 at the end of this form</p> |
| <p>2. Date of the alleged misconduct</p> <p><i>(section 143(3) of the Act requires an application to be made within 3 months of alleged misconduct occurring)</i></p>  | <p><input type="checkbox"/> Please confirm that you have read the relevant instructions for section C.2 at the end of this form</p> |
| <p>3. Circumstances, actions or inactions alleged as constituting misconduct</p> <p><i>(regulation 11(1)(c))</i></p>   |   |
| <p>4. Particulars of any evidence of the circumstances, actions or inactions alleged as constituting the misconduct</p> <p><i>(regulation 11(1)(d))</i></p> <p><i>Note: Further information may be attached to this form</i></p>   |   |

## Section D - Details of steps taken by Council to resolve the matter

|   |  |
|---|--|
| <p>Note: Under section 144 of the Act the Principal Councillor Conduct Registrar must be satisfied that the Council has taken sufficient or appropriate steps to resolve the matter and the matter remains unresolved, or the Council has not taken any steps to resolve the matter but the reasons for that is adequate.</p> |  |
| <p>5. Specify any steps taken by Council to resolve the</p>   |  |

|  |  |
|--|--|
| matter and the reason why the matter was not resolved by the taking of those steps<br><i>(regulation 11(1)(e)(ii))</i> |  |
|--|--|

OR

|  |  |
|--|--|
| 6. If the Council did not take any steps to resolve the matter, the reason why the Council did not take any steps to resolve the matter<br><i>(regulation 11(1)(e)(iii))</i> |  |
|--|--|

## Section E - Declaration

### Privacy collection statement

The Principal Councillor Conduct Registrar is an officer of the Department of Government Services. The Department is committed to protecting personal information provided by you in accordance with the principles of the Victorian privacy laws.

The information you provide in this application will be used for the purposes of and in accordance with the provisions of the *Local Government Act 2020* (the Act) relating to the internal arbitration process and related processes, especially Part 6 of that Act. These purposes include (but are not limited to):

- Assessing whether your application meets the criteria set out in section 144 of the Act for the appointment of an arbiter to hear the application. If an arbiter is appointed, the information in the application will be provided to the arbiter for the purposes of hearing the matter.
- In the conduct of an internal arbitration process, copies of the material may be provided to other individuals and organisations who are concerned in the matter.
- If an internal arbitration process proceeds to a final determination, the arbiter's decision and statement of reasons will be tabled at the next Council meeting, and these may include information that you have provided.
- Use by Department of Government Services officers and Local Government Inspectorate officers for related purposes under the Act.
- The exercise of the powers and functions of the Minister for Local Government, such as the establishment of a Commission of Inquiry or the standing down of a councillor.

The information may also be used or disclosed as otherwise required by law, such as pursuant to a court order or under another law that requires the disclosure of the information.

Do you wish this application to be otherwise treated as confidential?      Yes / No

### **E.1 - Declaration where application is made by a single councillor**

I declare that the above information is true and correct to the best of my knowledge.

I have read and understand the privacy collection statement above.

I agree that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.

I acknowledge that the information I have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) the Council's Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for purposes under the Act.

|                        |  |
|------------------------|--|
| Signature of applicant |  |
| Date                   |  |

### **E.2 - Declaration where application is made by the Council**

I declare that the above information is true and correct to the best of my knowledge.

I attach a certified copy of the relevant minute of the Council's resolution to make this application and appointing me as the appointed representative.

I have read and understand the privacy collection statement above.

I agree that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.

I acknowledge that the information I have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) the Council's Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for purposes under the Act.

|                                       |  |
|---------------------------------------|--|
| Signature of appointed representative |  |
| Date                                  |  |

### **E.3 - Declaration where application is made by a group of councillors**

I declare that the above information is true and correct to the best of my knowledge.

I have accepted appointment as the appointed representative for the purposes of this application by the group of councillors listed below.

I have read and understand the privacy collection statement above.

I agree that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.

I acknowledge that the information I have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) the Council's Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for

|                                       |  |
|---------------------------------------|--|
| purposes under the Act.               |  |
| Signature of appointed representative |  |
| Date                                  |  |

I / we declare that the above information is true and correct to the best of my / our knowledge.

I / we confirm that I / we have appointed the councillor identified in Section A to be the appointed representative for the purposes of this application.

I / we have read and understand the privacy collection statement above.

I /we acknowledge that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.

I /we agree that the information I / we have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) Council's Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for purposes under the Act.

| Name of councillor | Signature of councillor | Date |
|--------------------|-------------------------|------|
|                    |                         |      |
|                    |                         |      |
|                    |                         |      |
|                    |                         |      |
|                    |                         |      |

### Instructions for completing Form 3

#### **Section C.1 - Clause(s) of the Model Councillor Code of Conduct alleged to have been breached**

The information provided at Section C.1 of the form must specify the clause or clauses of the Model Councillor Code of Conduct that the respondent is alleged to have breached.

The Model Councillor Code of Conduct in Schedule 1 to the Local Government (Governance and Integrity) Regulations 2020 is set out below.

#### **Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020**

##### **Definitions**

In this Schedule—

***discrimination*** means unfair or unfavourable treatment of a person on the grounds of an attribute specified in section 6 of the *Equal Opportunity Act 2010*.

##### **Standards of Conduct**

#### **1. Performing the role of a Councillor**

A Councillor must do everything reasonably necessary to ensure that they perform the role

of a Councillor effectively and responsibly, including by—

- (a) representing the interests of the municipal community by considering and being responsive to the diversity of interests and needs of the municipal community; and
- (b) being fit to perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (c) diligently using Council processes to become informed about matters which are subject to Council decisions; and
- (d) not performing or purporting to perform any responsibilities or functions of the Chief Executive Officer; and
- (e) acknowledging and supporting the Mayor in the performance of the role of the Mayor, including by—
  - (i) respecting and complying with a ruling of the Mayor as the chair of Council meetings (unless dissenting from the ruling in accordance with the Council's Governance Rules); and
  - (ii) refraining from making public comment, including to the media, that could reasonably be perceived to be an official comment on behalf of the Council where the Councillor has not been authorised by the Mayor to make such a comment.

## 2. Behaviours

- (1) A Councillor must treat others, including other Councillors, members of Council staff and members of the public, with dignity, fairness, objectivity, courtesy and respect, including by—
  - (a) not engaging in demeaning, abusive, obscene or threatening behaviour, including where the behaviour is of a sexual nature; and
  - (b) not engaging in behaviour that intentionally causes or perpetuates stigma, stereotyping, prejudice or aggression against a person or class of persons; and
  - (c) not engaging in discrimination or vilification; and
  - (d) supporting the Council, when applying the Council's community engagement policy, to develop respectful relationships and partnerships with Traditional Owners, Aboriginal community controlled organisations and the Aboriginal community; and
  - (e) supporting the Council in fulfilling its obligation under the Act or any other Act (including the **Gender Equality Act 2020**) to achieve and promote gender equality; and
  - (f) ensuring their behaviours and interactions with children are in line with the Council's policies and procedures as a child safe organisation and obligations under the **Child Wellbeing and Safety Act 2005** to the extent that they apply to Councillors.
- (2) A Councillor, as an individual at the workplace, must take reasonable care for their own health and safety and take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons by—
  - (a) adhering to applicable systems and policies put in place by the Chief Executive Officer to manage risks to health and safety in the workplace; and
  - (b) complying, so far as the Councillor is reasonably able, with any reasonable instruction that is given by the Chief Executive Officer to manage risks to health and safety.
- (3) A Councillor must act in accordance with any policies, practices and protocols developed and implemented under section 46 of the Act that support arrangements for interactions between members of Council staff and Councillors.

## 3. Good governance

A Councillor must comply with the following Council policies and procedures required for delivering good governance for the benefit and wellbeing of the municipal community—

- (a) the Council's expenses policy adopted and maintained under section 41 of the Act;
- (b) the Council's Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act, including in relation to—
  - (i) conduct in Council meetings or meetings of delegated committees; and
  - (ii) requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication; and
  - (iii) the Council's election period policy included in the Council's Governance Rules under section 69 of the Act, including in ensuring that Council resources are not used in a way that is intended to influence, or is likely to influence, voting at a general election or by-election;
- (c) the Council's Councillor gift policy adopted under section 138 of the Act;
- (d) any direction of the Minister given under section 175 of the Act.

#### **4. Integrity**

- (1) A Councillor must act with integrity, exercise reasonable care and diligence and take reasonable steps to avoid any action which may diminish the public's trust and confidence in the integrity of local government, including by—
  - (a) ensuring that their behaviour does not bring discredit upon the Council; and
  - (b) not deliberately misleading the Council or the public about any matter related to the performance of their public duties; and
  - (c) not making Council information publicly available where public availability of the information would be contrary to the public interest.

Note: See the public transparency principles set out in section 58 of the Act.

- (2) A Councillor must not, in their personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), expressly or impliedly request preferential treatment for themselves or a related person or entity.

#### **5. The Model Councillor Code of Conduct does not limit robust public debate**

Nothing in the Model Councillor Code of Conduct is intended to limit, restrict or detract from robust public debate of issues in a democracy

#### **Section C.2 - Date of the alleged misconduct**

An application under section 143 of the Act for an internal arbitration process must be made within 3 months of the alleged misconduct occurring. An application is made when it is received by the Principal Councillor Conduct Registrar.

The information provided at Section C.2 of the form must specify the date the alleged misconduct occurred. If more than one allegation of misconduct is made the application must specify the date of each allegation.

An application must not allege misconduct that occurred more than 3 months from the date the application is made.

#### **Section E.2 Declaration where application is made by the Council**

If the application is made by the Council, a certified copy of the relevant minute of the Council's resolution to make the application and appoint the appointed representative must be provided with the application.

If a certified copy of the relevant minute is not provided, the form will be returned as incomplete.

#### **Lodgement of application**

This form has been provided to assist a Council or Councillor(s) with making an application under section 143 of the Act for an internal arbitration process.

The use of this form is not mandatory. If an applicant chooses not to use this form, an application should be made in writing and address the prescribed requirements for an application for an internal arbitration process set out in regulation 11 of the Regulations.

An application for an internal arbitration process must be made to the Principal Councillor Conduct Registrar. Applications can be lodged with the Principal Councillor Conduct Registrar either:

by email to: [pcc.registrar@ecodev.vic.gov.au](mailto:pcc.registrar@ecodev.vic.gov.au)

by post to: Principal Councillor Conduct Registrar  
Level 8, 1 Spring Street  
Melbourne, VIC 3000

This document has been provided as a Microsoft Word document for ease of use. Final applications (including any supporting materials) are requested to be lodged as a single PDF document to assist the Principal Councillor Conduct Registrar with processing applications.

Any queries about lodging an application should be directed to the Council's Councillor Conduct Officer in the first instance.